

# TENNESSEE REGULATORY AUTHORITY

Deborah Taylor Tate, Chairman  
Pat Miller, Director  
Sara Kyle, Director  
Ron Jones, Director



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Nashville, Tennessee 37243-0505

## NOTICE

**IN RE: IMPLEMENTATION OF THE FEDERAL  
COMMUNICATIONS COMMISSION'S TRIENNIAL  
REVIEW ORDER - 90 DAY PROCEEDING**

**DOCKET NO: 03-00490**

**DATE: September 11, 2003**

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On August 21, 2003, the Federal Communications Commission ("FCC") released its *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carrier* ("Triennial Review Order" or "Order").<sup>1</sup> The Order is scheduled to become effective on October 2, 2003.

Among the issues addressed in the Order are the unbundling obligations with regard to local circuit switching for enterprise customers. In the Order, the FCC finds that, on a national basis, competitors are not impaired without access to unbundled local circuit switching for enterprise customers.<sup>2</sup> The Order, however, concludes that "we recognize that a geographic specific analysis could possibly demonstrate that competitive carriers are impaired without access to incumbent LEC local circuit switching"<sup>3</sup> and that "state commissions are uniquely positioned to evaluate local market conditions and determine whether DS1 enterprise customers should be granted access to unbundled incumbent LEC circuit switching."<sup>4</sup> The Order goes on to state that:

We permit state commissions to rebut the national finding of no impairment by undertaking a more granular analysis utilizing the economic and operational criteria contained herein. State Commissions will have ninety days from the effective date of this Order to petition the Commission [FCC] to waive the finding of no impairment. State commissions wishing to do so must make an affirmative finding of impairment showing that carriers providing service at the DS1 capacity

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<sup>1</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers. Report and Order on Remand. CC Docket No. 01-00338, released August 21, 2003.*

<sup>2</sup> ¶451.

<sup>3</sup> ¶454.

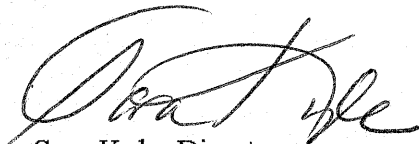
<sup>4</sup> ¶455.

will have ninety days from the effective date of this Order to petition the Commission [FCC] to waive the finding of no impairment. State commissions wishing to do so must make an affirmative finding of impairment showing that carriers providing service at the DS1 capacity and above should be entitled to unbundled access to local circuit switching in a particular market.<sup>5</sup>

As a result, the aforementioned TRA Docket No. 03-00490 was created.

In light of the compressed schedule for states to rebut the FCC's finding, it is essential that this docket move expeditiously. Therefore, any party requesting that the Tennessee Regulatory Authority ("the Authority") consider rebutting the FCC's "no impairment" finding with regard to local circuit switching for enterprise customers within the ninety-day timeframe should file a petition with the Authority requesting such consideration no later than **Friday, September 24, 2003**.<sup>6</sup> Any party petitioning for such consideration should identify the particular geographic area(s) for which it is requesting that the Authority rebut the national finding and should also be prepared to actively participate in the proceeding including presenting "actual marketplace evidence"<sup>7</sup> and expert testimony during the hearing.

FOR THE TENNESSEE REGULATORY AUTHORITY



Sara Kyle, Director  
Hearing Officer

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<sup>5</sup> ¶455.

<sup>6</sup> As indicated in the Triennial Review Order, this does not preclude a party from filing such a petition at a later time. Such petition, however, will not be considered as part of this "90-day" proceeding. Instead, such petition will be considered within the six-month deadline required by the Order. (see footnote 1398 of the Order)

<sup>7</sup> *Report and Order*, ¶93.